

RECORDATION NO. 27740 FILED

DEC 03 '08 -8 00 AM

SURFACE TRANSPORTATION BOARD

ALVORD AND ALVORD
ATTORNEYS AT LAW
1050 SEVENTEENTH STREET, N.W.
SUITE 301

WASHINGTON, D.C.

20036

(202) 393-2266

FAX (202) 393-2156

E-MAIL alvordlaw@aol.com

ELIAS C. ALVORD (1942)
ELLSWORTH C. ALVORD (1964)

OF COUNSEL
URBAN A LESTER

December 3, 2008

Anne K. Quinlan, Esquire
Acting Secretary
Surface Transportation Board
395 E Street, S.W.
Washington, D.C. 20423-0001

Dear Ms. Quinlan:

Enclosed for recordation pursuant to the provisions of 49 U.S.C. Section 11301(a) are two (2) copies of a Memorandum of Assignment and Assumption Agreement, dated as of December 2, 2008, a primary document as defined in the Board's Rules for the Recordation of Documents.

The names and addresses of the parties to the enclosed document are:

Seller/

Assignor:

C.I.T. Leasing Corporation
30 S. Wacker Drive, Ste 3000
Chicago, IL 60606

Buyer/Assignee:

Midwest Railcar Corporation
4949 Autumn Oaks Drive
Maryville, IL 62062

Anne K. Quinlan, Esquire
December 3, 2008
Page 2

A description of the railroad equipment covered by the enclosed document is:

64 railcars within the series WRRRC 355 - WRRRC 423 as more particularly set forth in the attachment to the document.

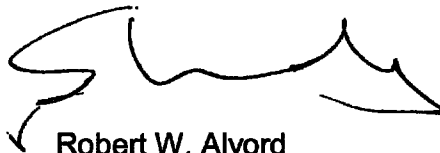
A short summary of the document to appear in the index is:

Memorandum of Assignment and Assumption Agreement.

Also enclosed is a check in the amount of \$41.00 payable to the order of the Surface Transportation Board covering the required recordation fee.

Kindly return stamped copies of the enclosed document to the undersigned.

Very truly yours,

A handwritten signature in black ink, appearing to read 'Robert W. Alvord', with a stylized, flowing script.

Robert W. Alvord

RWA/sem
Enclosures

DEC 03 '08 -8 00 AM

ASSIGNMENT AND ASSUMPTION AGREEMENT

SURFACE TRANSPORTATION BOARD

This ASSIGNMENT AND ASSUMPTION AGREEMENT, dated as of December 2, 2008 (this "Agreement"), is between C.I.T. LEASING CORPORATION, a Delaware corporation (the "Seller"), and MIDWEST RAILCAR CORPORATION, an Illinois corporation (the "Buyer").

RECITALS

WHEREAS, the Buyer and the Seller have entered into that certain Purchase and Sale Agreement, dated as of December 2, 2008 (the "Purchase Agreement"), providing for the purchase of the Ownership Interest by the Buyer from the Seller, subject to the terms and conditions set forth therein; and

WHEREAS, the Purchase Agreement contemplates the execution and delivery of this Agreement by the Seller and the Buyer.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows.

AGREEMENT

1. **Definitions.** Capitalized terms used herein without definition shall have the meanings assigned to them in Section 4 of this Agreement.

2. **Assignment.** As of the date hereof, the Seller hereby assigns and transfers to the Buyer all of the Seller's rights, title and interest in, and all obligations under the Lease Documents, except to the extent constituting Excluded Rights and Obligations.

3. **Acceptance of Assignment; Assumption of Obligations; Effect of Assignment.** The Buyer accepts the assignment contained in Section 2 hereof and, in respect of the period on and after the Closing Date, and, except for Excluded Rights and Obligations, assumes all obligations of the Seller under, and agrees to be bound to the same extent as the Seller by, all the terms of, the Lease Documents. Effective on and after the Closing Date, the Buyer shall be deemed to stand as the Lessor in the place of the Seller for all purposes under the Lease Documents, the Ownership Interest, except with respect to Excluded Rights and Obligations, and each such reference in the Lease Documents to the Lessor shall be deemed to mean the Buyer. The Seller, in respect of the period on and after the Closing Date, is released of all obligations of the Lessor under the Lease Documents, except to the extent of Excluded Rights and Obligations.

4. **Definitions.** Except as otherwise specified or as the context may otherwise require, the following terms have the respective meanings set forth below whenever used in this Agreement (terms defined in the singular to have a correlative meaning when used in the plural and vice versa).

Bill of Sale: the bill of sale granted by the Seller in favor of the Buyer with respect to the Equipment.

Casualty Occurrence: the total destruction or other total loss of any Unit of Equipment.

Closing Date: the date of the closing of the transaction with respect to the Equipment contemplated by the Purchase Agreement.

Equipment: the Units of Equipment listed on Schedule A hereto.

Excluded Rights and Obligations: (i) all rights to payments of indemnity that are due and payable to, or otherwise accrued in favor of, the Seller prior to the Closing Date under the Lease and any rights of the Seller to be indemnified, held harmless and defended by any indemnitor (including, without limitation, by the Lessee) under the Lease with respect to losses, damages, injuries, claims, demands, expenses and Taxes incurred or suffered by or imposed against the Seller prior to the Closing Date or in respect of any period prior to the Closing Date; (ii) all rights to payment of liability insurance proceeds that are due and payable to, or otherwise accrued in favor of, the Seller prior to the Closing Date under any insurance maintained by such Lessee pursuant to the Lease and any rights to any proceeds payable under any such liability insurance as a result of claims made against the Seller with respect to any event occurring or circumstance existing prior to the Closing Date; (iii) subject to Section 1.5 of the Purchase Agreement, all rights to payments of rent, and all other periodic and non-periodic payments (not already included in clauses (i) and (ii) above), in respect of all periods prior to the Closing Date, including, in addition to scheduled rent payments in such periods, all rents accrued from the last scheduled rent payment date prior to the Closing Date through the day immediately prior to the Closing Date; (iv) all rights to payment in respect of Casualty Occurrences prior to the Closing Date; (v) all obligations of the Seller under the Lease to be performed prior to the Closing Date; and (vi) all liabilities of the Seller under the Lease or in respect of the Equipment arising from any event occurring or circumstance existing prior to the Closing Date.

Lease: the lease of equipment identified on Annex I hereto.

Lease Documents: the documents identified on Annex I hereto.

Lessee: CEMEX, Inc., a Louisiana corporation.

Lessor: the lessor under the Lease Documents.

Master Lease: the Master Net Railcar Lease identified on Annex I hereto.

Ownership Interest: the Seller's rights, title and interest in and to the Equipment and the Seller's rights and obligations under the Lease Documents, except the Excluded Rights and Obligations.

5. **Amendments.** No provision of this Agreement may be amended, modified or waived except by written agreement duly executed by each of the parties hereto.

6. **Notices.** All notices, requests or other communications to or upon any party hereto in connection herewith shall be given in the manner prescribed by Section 9.7 of the Purchase Agreement.

7. **Headings.** The section headings used in this Agreement are for convenience of reference only and shall not be used or construed to define, interpret, expand or limit any provision hereof.

8. **Counterparts.** This Agreement may be executed in separate counterparts, each of which when so executed shall be deemed to be an original and all of which taken together shall constitute one and the same agreement.

9. **Governing Law.** This Agreement shall be governed by, and construed and enforced in accordance with, the internal substantive laws of the State of New York, without giving effect to its conflict of law rules (other than Section 5-1401 of the New York General Obligations Law).

10. **Entire Agreement.** This Agreement, the Purchase Agreement and the Bill of Sale (together with their exhibits and schedules) represent the entire agreement of the parties with respect to the subject matter hereof and thereof and supersede and cancel any prior oral or written agreement, letter of intent or understanding with respect to such subject matter.

11. **Recordation.** The Seller and the Buyer agree to record this Agreement or a Memorandum of Assignment of Railcar Lease Schedule with the Surface Transportation Board or the Registrar General of Canada, as applicable, to evidence the assignment by the Seller to the Buyer of the Seller's rights and obligations under the Lease Documents.

[Signature page follows]

[Assignment and Assumption Agreement]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto
as of the date first above written.

MIDWEST RAILCAR CORPORATION

By: 

Name: Richard M. Folio

Title: Executive Vice President

C.I.T. LEASING CORPORATION

By: _____

Name: Randy Houk

Title: Vice President

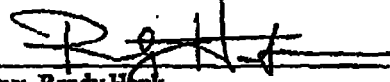
[Assignment and Assumption Agreement]

IN WITNESS WHEREOF, this Agreement has been duly executed by the parties hereto
as of the date first above written.

MIDWEST RAILCAR CORPORATION

By: _____
Name: Richard M. Folio
Title: Executive Vice President

C.I.T. LEASING CORPORATION

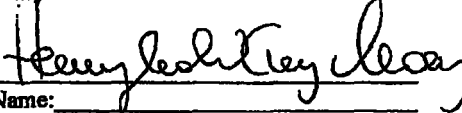
By:  _____
Name: Randy Honk
Title: Vice President

[Assignment and Assumption Agreement]

STATE OF MARYLAND)
) ss.:
CITY OF BALTIMORE)

On this, the 21st day of November, 2008, before me, a Notary Public in and for said City and State, personally appeared Richard M. Folio, Executive Vice President of MIDWEST RAILCAR CORPORATION, who acknowledged himself to be a duly authorized officer of Midwest Railcar Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.


Name: _____
Notary Public

HENRYKA W. GRYC CRAIG
NOTARY PUBLIC STATE OF MARYLAND
County of Baltimore
My Commission Expires September 29, 2009

[Assignment and Assumption Agreement]

STATE OF Illinois)
) ss.:
COUNTY OF Cook)

On this, the 25th day of November, 2008, before me, a Notary Public in and for said County and State, personally appeared Randy Houk, a Vice President of C.I.T. Leasing Corporation, who acknowledged himself to be a duly authorized officer of C.I.T. Leasing Corporation, and that, as such officer, being authorized to do so, he executed the foregoing instrument for the purposes therein contained.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal on the date above mentioned.

Rachel Moton



SCHEDULE A

DESCRIPTION OF RAILCARS

<u>Quantity</u>	<u>Equipment Description</u>	<u>Car Marks and Numbers</u>
64	2300 cubic-foot rapid discharge aggregate open top hopper railcars originally built in 1978	

Number of Cars	Equipment Description
64	2300 cubic-foot rapid discharge aggregate railcars
1	WRRC 355
2	WRRC 356
3	WRRC 357
4	WRRC 358
5	WRRC 359
6	WRRC 360
7	WRRC 361
8	WRRC 362
9	WRRC 363
10	WRRC 364
11	WRRC 365
12	WRRC 366
13	WRRC 367
14	WRRC 368
15	WRRC 369
16	WRRC 370
17	WRRC 371
18	WRRC 372
19	WRRC 373
20	WRRC 374
21	WRRC 375
22	WRRC 377
23	WRRC 378
24	WRRC 379
25	WRRC 380
26	WRRC 381
27	WRRC 382
28	WRRC 383
29	WRRC 384
30	WRRC 385
31	WRRC 387
32	WRRC 388
33	WRRC 389

Number of Cars		Equipment Description
34	WRRC	390
35	WRRC	391
36	WRRC	393
37	WRRC	394
38	WRRC	395
39	WRRC	396
40	WRRC	397
41	WRRC	398
42	WRRC	399
43	WRRC	400
44	WRRC	401
45	WRRC	402
46	WRRC	403
47	WRRC	404
48	WRRC	405
49	WRRC	407
50	WRRC	409
51	WRRC	410
52	WRRC	411
53	WRRC	412
54	WRRC	413
55	WRRC	414
56	WRRC	415
57	WRRC	416
58	WRRC	417
59	WRRC	418
60	WRRC	419
61	WRRC	420
62	WRRC	421
63	WRRC	422
64	WRRC	423

CERTIFICATION

I, Robert W. Alvord, attorney licensed to practice in the State of New York and the District of Columbia, do hereby certify under penalty of perjury that I have compared the attached copy with the original thereof and have found the copy to be complete and identical in all respects to the original document.

Dated: 12/3/08



Robert W. Alvord